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June 20, 2005

Ref: 8EPR-N

Victoria Rutson
Section of Environmental Analysis
Case Control Unit
Finance Docket No. 33407
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

Re: Comments on the Dakota, Minnesota and
Eastern Railroad Corporation Construction
into the Powder River Basin DM&E
CEQ#20050163

Dear Ms Rutson:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, et. seq., and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the Region 8 office of the Environmental Protection Agency (EPA) has reviewed the referenced Draft Supplemental Environmental Impact Statement (DSEIS) for the Dakota, Minnesota and Eastern Railroad Corporation Construction into the Powder River Basin Project (DM&E).

EPA has reviewed the DM&E document and offers a few general comments concerning the analysis as required by the 8th Circuit Court of Appeals Decision in Mid States Coalition for Progress v. STB. EPA finds that the analysis concerning horn noise, noise and vibration synergies, and programmatic agreement to be sufficient. However, there are remaining air quality questions in the DSEIS which the following comments address.

We recognize the difficulties in determining impacts from long-term projects concerning energy and coal usage. However, the new analysis in the DSEIS seems to contradict statements of purpose and need found in Chapter 2 of the Final EIS. The most obvious example includes the following simple generalization. In the Final EIS, Chapter 2 on Purpose and Need, discusses the need for Powder River Basin (PRB) coal to reduce SO₂ emissions and how the vastly reduced cost of PRB coal will greatly increase demand for coal from Wyoming. Those statements when contrasted with projections in the DSEIS that forecast very minor increases in coal usage and electricity generation does not provide a clear understanding of what the potential for regional air quality impacts from this project potentially might include.

Since the completion of the Final DEIS, the price of natural gas has dramatically increased making the outlook for coal usage even more competitive making the DSEIS analysis appear even more confusing. Primarily, it is not clear that the Energy Information Administration's coal usage forecast supporting the air quality modeling in the DSEIS analysis reflects these recent gas price predictions.

Although some of the increased usage of PRB coal will be replacement of more costly and higher sulfur content coal, the increased availability of inexpensive coal could reduce or preclude the competitiveness of other low emission sources of electricity which would have additional environmental benefits. It must also be understood as is pointed out in the analysis that PRB coal will continue to emit NO_x, mercury and CO₂. EPA concurs with the analysis that there could be large benefits for replacing higher sulfur content coal with PRB coal. However, the DSEIS analysis also points out that NO_x and mercury emissions will remain the same or increase under this scenario. In addition, the DSEIS analysis does not consider the climate changing aspects of increases to CO₂ emissions nor is there mention of the potential for reducing these impacts by using emerging technologies such as carbon sequestration.

Finally, the 8th Circuit Court of Appeals specifically requested a long-term evaluation of air quality impacts from PRB coal usage on local use areas and regional areas. EPA agrees with the difficulties of specifically determining the local area impacts caused by future coal usage from this project. We also found the results of the regional impact analysis for predictions to be appropriate, as was determined in the DSEIS. However, EPA does question using a 15 year projection (2005 to 2020) to be a comprehensive look at the long-term nature of potential impacts from this rail expansion project when the expected life of the rail project and production of PRB coal would extend well past the year 2020.

EPA's previous comments on the prior Final EIS are enclosed and we request that the new Final EIS incorporate those concerns as well as the comments noted above. Based on the procedures EPA uses to evaluate the potential effects of proposed actions and the information in the DSEIS, the Proposed Actions identified by the DSEIS for the Dakota, Minnesota and Eastern Railroad Corporation Construction into the Powder River Basin has been rated EC-1. A copy of the EPA rating system has also been enclosed. Please call me at (303) 312-6004 if you have any questions concerning our comments.

Sincerely,

/s/ Larry Svoboda
Director, NEPA Program
Office of Environmental Protection and
Remediation

Enclosures

Cc: Kathleen Kowal, EPA Region V